

By the Committee on Natural Resources and Senator Laurent

312-2002-99

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.;
4 defining the terms "mean annual flood line,"
5 "permanent nontidal surface water body," and
6 "tidally influenced surface water body";
7 revising permitting and siting regulations;
8 amending s. 381.0066, F.S.; providing for the
9 use of specified fees for funding a training
10 center; providing for a scientific research
11 project on seasonally inundated areas and a
12 report to the Legislature; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsections (2) and (4) of section
18 381.0065, Florida Statutes, 1998 Supplement, are amended to
19 read:

20 381.0065 Onsite sewage treatment and disposal systems;
21 regulation.--

22 (2) DEFINITIONS.--As used in ss. 381.0065-381.0067,
23 the term:

24 (a) "Available," as applied to a publicly owned or
25 investor-owned sewerage system, means that the publicly owned
26 or investor-owned sewerage system is capable of being
27 connected to the plumbing of an establishment or residence, is
28 not under a Department of Environmental Protection moratorium,
29 and has adequate permitted capacity to accept the sewage to be
30 generated by the establishment or residence; and:

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1 1. For a residential subdivision lot, a single-family
2 residence, or an establishment, any of which has an estimated
3 sewage flow of 1,000 gallons per day or less, a gravity sewer
4 line to maintain gravity flow from the property's drain to the
5 sewer line, or a low pressure or vacuum sewage collection line
6 in those areas approved for low pressure or vacuum sewage
7 collection, exists in a public easement or right-of-way that
8 abuts the property line of the lot, residence, or
9 establishment.

10 2. For an establishment with an estimated sewage flow
11 exceeding 1,000 gallons per day, a sewer line, force main, or
12 lift station exists in a public easement or right-of-way that
13 abuts the property of the establishment or is within 50 feet
14 of the property line of the establishment as accessed via
15 existing rights-of-way or easements.

16 3. For proposed residential subdivisions with more
17 than 50 lots, for proposed commercial subdivisions with more
18 than 5 lots, and for areas zoned or used for an industrial or
19 manufacturing purpose or its equivalent, a sewerage system
20 exists within one-fourth mile of the development as measured
21 and accessed via existing easements or rights-of-way.

22 4. For repairs or modifications within areas zoned or
23 used for an industrial or manufacturing purpose or its
24 equivalent, a sewerage system exists within 500 feet of an
25 establishment's or residence's sewer stub-out as measured and
26 accessed via existing rights-of-way or easements.

27 (b) "Blackwater" means that part of domestic sewage
28 carried off by toilets, urinals, and kitchen drains.

29 (c) "Domestic sewage" means human body waste and
30 wastewater, including bath and toilet waste, residential
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1 laundry waste, residential kitchen waste, and other similar
2 waste from appurtenances at a residence or establishment.

3 (d) "Graywater" means that part of domestic sewage
4 that is not blackwater, including waste from the bath,
5 lavatory, laundry, and sink, except kitchen sink waste.

6 (e) "Florida Keys" means those islands of the state
7 located within the boundaries of Monroe County.

8 (f) "Injection well" means an open vertical hole at
9 least 90 feet in depth, cased and grouted to at least 60 feet
10 in depth which is used to dispose of effluent from an onsite
11 sewage treatment and disposal system.

12 (g) "Innovative system" means an onsite sewage
13 treatment and disposal system that, in whole or in part,
14 employs materials, devices, or techniques that are novel or
15 unique and that have not been successfully field-tested under
16 sound scientific and engineering principles under climatic and
17 soil conditions found in this state.

18 (h) "Lot" means a parcel or tract of land described by
19 reference to recorded plats or by metes and bounds, or the
20 least fractional part of subdivided lands having limited fixed
21 boundaries or an assigned number, letter, or any other legal
22 description by which it can be identified.

23 (i) "Mean annual flood line" means the elevation
24 determined by calculating the arithmetic mean of the
25 elevations of the highest yearly flood stage or discharge for
26 the period of record, to include at least the most recent
27 10-year period. If at least 10 years of data are not
28 available, the mean annual flood line shall be determined
29 based upon the data available and field verification conducted
30 by a certified professional surveyor and mapper having
31 experience in the determination of flood water elevation lines

1 or, at the option of the applicant, by department personnel.
2 Field verification of the mean annual flood line shall be
3 performed using a combination of those indicators listed in
4 subparagraphs 1-7 which are present on the site and which
5 reflect flooding that recurs on an annual basis. When any one
6 or more of these indicators reflect a rare or aberrant event,
7 such indicators shall not be used in determining the mean
8 annual flood line. The indicators that may be considered are:
9 1. Water stains on the ground surface, trees, and
10 other fixed objects;
11 2. Hydric adventitious roots;
12 3. Drift lines;
13 4. Rafted debris;
14 5. Aquatic mosses and liverworts;
15 6. Moss collars; and
16 7. Lichen lines.
17 ~~(j)(i)~~ "Onsite sewage treatment and disposal system"
18 means a system that contains a standard subsurface, filled, or
19 mound drainfield system; an aerobic treatment unit; a
20 graywater system tank; a laundry wastewater system tank; a
21 septic tank; a grease interceptor; a dosing tank; a solids or
22 effluent pump; a waterless, incinerating, or organic
23 waste-composting toilet; or a sanitary pit privy that is
24 installed or proposed to be installed beyond the building
25 sewer on land of the owner or on other land to which the owner
26 has the legal right to install a system. This term does not
27 include package sewage treatment facilities and other
28 treatment works regulated under chapter 403.
29 (k) "Permanent nontidal surface water body" means a
30 perennial stream, a perennial river, an intermittent stream, a
31 perennial lake, a submerged marsh or swamp, a submerged wooded

1 marsh or swamp, or a spring or a seep, as identified on the
2 most recent quadrangle map, 7.5 minute series (topographic),
3 produced by the United States Geological Survey. The term also
4 means an artificial surface water body that does not have an
5 impermeable bottom and side and that is designed to hold, or
6 does hold, visible standing water for at least 180 days of the
7 year. However, a nontidal surface water body that is drained,
8 either naturally or artificially, where the intent or the
9 result is that such drainage be temporary, shall be considered
10 a permanent nontidal surface water body. A nontidal surface
11 water body that is drained of all visible surface water, where
12 the lawful intent or the result of such drainage is that such
13 drainage will be permanent, shall not be considered a
14 permanent nontidal surface water body. The boundary of a
15 permanent nontidal surface water body shall be the mean annual
16 flood line.

17 (l)~~(j)~~ "Potable water line" means any water line that
18 is connected to a potable water supply source, but the term
19 does not include an irrigation line with any of the following
20 types of backflow devices:

21 1. For irrigation systems into which chemicals are not
22 injected, any atmospheric or pressure vacuum breaker or double
23 check valve or any detector check assembly.

24 2. For irrigation systems into which chemicals such as
25 fertilizers, pesticides, or herbicides are injected, any
26 reduced pressure backflow preventer.

27 (m)~~(k)~~ "Septage" means a mixture of sludge, fatty
28 materials, human feces, and wastewater removed during the
29 pumping of an onsite sewage treatment and disposal system.

30 (n)~~(l)~~ "Subdivision" means, for residential use, any
31 tract or plot of land divided into two or more lots or parcels

1 of which at least one is 1 acre or less in size for sale,
2 lease, or rent. A subdivision for commercial or industrial
3 use is any tract or plot of land divided into two or more lots
4 or parcels of which at least one is 5 acres or less in size
5 and which is for sale, lease, or rent. A subdivision shall be
6 deemed to be proposed until such time as an application is
7 submitted to the local government for subdivision approval or,
8 in those areas where no local government subdivision approval
9 is required, until such time as a plat of the subdivision is
10 recorded.

11 (o)~~(m)~~ "Tidally influenced surface water body" means a
12 ~~recognizable~~ body of water that is subject to the ebb and flow
13 of the tides and has as its boundary a mean high-water line as
14 defined by s. 177.27(15), including swamp or marsh areas,
15 ~~bayheads, cypress ponds and sloughs, and natural or~~
16 ~~constructed ponds contained within a recognizable boundary.~~
17 ~~This does not include retention or detention areas designed to~~
18 ~~contain standing or flowing water for less than 72 hours after~~
19 ~~a rainfall.~~

20 (p)~~(n)~~ "Toxic or hazardous chemical" means a substance
21 that poses a serious danger to human health or the
22 environment.

23 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
24 may not construct, repair, modify, abandon, or operate an
25 onsite sewage treatment and disposal system without first
26 obtaining a permit approved by the department. The department
27 may issue permits to carry out this section, but may not make
28 the issuance of permits contingent upon prior approval of the
29 Department of Environmental Protection. A construction permit
30 is valid for 18 months from the issuance date and may be
31 extended by the department for one 90-day period under rules

1 adopted by the department. A repair permit is valid for 90
2 days from the date of issuance. An operating permit must be
3 obtained prior to the use of any aerobic treatment unit or if
4 the establishment generates commercial waste. Buildings or
5 establishments that use an aerobic treatment unit or generate
6 commercial waste shall be inspected by the department at least
7 annually to assure compliance with the terms of the operating
8 permit. The operating permit is valid for 1 year from the date
9 of issuance and must be renewed annually. If all information
10 pertaining to the siting, location, and installation
11 conditions or repair of an onsite sewage treatment and
12 disposal system remains the same, a construction or repair
13 permit for the onsite sewage treatment and disposal system may
14 be transferred to another person, if the transferee files,
15 within 60 days after the transfer of ownership, an amended
16 application providing all corrected information and proof of
17 ownership of the property. There is no fee associated with
18 the processing of this supplemental information. A person may
19 not contract to construct, modify, alter, repair, service,
20 abandon, or maintain any portion of an onsite sewage treatment
21 and disposal system without being registered under part III of
22 chapter 489. A property owner who personally performs
23 construction, maintenance, or repairs to a system serving his
24 or her own owner-occupied single-family residence is exempt
25 from registration requirements for performing such
26 construction, maintenance, or repairs on that residence, but
27 is subject to all permitting requirements. A municipality or
28 political subdivision of the state may not issue a building or
29 plumbing permit for any building that requires the use of an
30 onsite sewage treatment and disposal system unless the owner
31 or builder has received a construction permit for such system

1 from the department. A building or structure may not be
2 occupied and a municipality, political subdivision, or any
3 state or federal agency may not authorize occupancy until the
4 department approves the final installation of the onsite
5 sewage treatment and disposal system. A municipality or
6 political subdivision of the state may not approve any change
7 in occupancy or tenancy of a building that uses an onsite
8 sewage treatment and disposal system until the department has
9 reviewed the use of the system with the proposed change,
10 approved the change, and amended the operating permit.

11 (a) Subdivisions and lots in which each lot has a
12 minimum area of at least one-half acre and either a minimum
13 dimension of 100 feet or a mean of at least 100 feet of the
14 side bordering the street and the distance formed by a line
15 parallel to the side bordering the street drawn between the
16 two most distant points of the remainder of the lot may be
17 developed with a water system regulated under s. 381.0062 and
18 onsite sewage treatment and disposal systems, provided the
19 projected daily domestic sewage flow does not exceed an
20 average of 1,500 gallons per acre per day, and provided
21 satisfactory drinking water can be obtained and all distance
22 and setback, soil condition, water table elevation, and other
23 related requirements of this section and rules adopted under
24 this section can be met.

25 (b) Subdivisions and lots using a public water system
26 as defined in s. 403.852 may use onsite sewage treatment and
27 disposal systems, provided there are no more than four lots
28 per acre, provided the projected daily domestic sewage flow
29 does not exceed an average of 2,500 gallons per acre per day,
30 and provided that all distance and setback, soil condition,
31 water table elevation, and other related requirements that are

1 generally applicable to the use of onsite sewage treatment and
2 disposal systems are met.

3 (c) Notwithstanding the provisions of paragraphs (a)
4 and (b), for subdivisions platted of record on or before
5 October 1, 1991, when a developer or other appropriate entity
6 has previously made or makes provisions, including financial
7 assurances or other commitments, acceptable to the Department
8 of Health, that a central water system will be installed by a
9 regulated public utility based on a density formula, private
10 potable wells may be used with onsite sewage treatment and
11 disposal systems until the agreed-upon densities are reached.
12 The department may consider assurances filed with the
13 Department of Business and Professional Regulation under
14 chapter 498 in determining the adequacy of the financial
15 assurance required by this paragraph. In a subdivision
16 regulated by this paragraph, the average daily domestic sewage
17 flow may not exceed 2,500 gallons per acre per day. This
18 section does not affect the validity of existing prior
19 agreements. After October 1, 1991, the exception provided
20 under this paragraph is not available to a developer or other
21 appropriate entity.

22 (d) Paragraphs (a) and (b) do not apply to any
23 proposed residential subdivision with more than 50 lots or to
24 any proposed commercial subdivision with more than 5 lots
25 where a publicly owned or investor-owned sewerage system is
26 available. It is the intent of this paragraph not to allow
27 development of additional proposed subdivisions in order to
28 evade the requirements of this paragraph. The department
29 shall report to the Legislature by February 1 of each
30 odd-numbered year concerning the success in meeting this
31 intent.

1 (e) Onsite sewage treatment and disposal systems must
2 not be placed closer than:

3 1. Seventy-five feet from a private potable well.

4 2. Two hundred feet from a public potable well serving
5 a residential or nonresidential establishment having a total
6 sewage flow of greater than 2,000 gallons per day.

7 3. One hundred feet from a public potable well serving
8 a residential or nonresidential establishment having a total
9 sewage flow of less than or equal to 2,000 gallons per day.

10 ~~4. Seventy-five feet from surface waters.~~

11 4.5. Fifty feet from any nonpotable well.

12 5.6. Ten feet from any storm sewer pipe, to the
13 maximum extent possible, but in no instance shall the setback
14 be less than 5 feet.

15 6.7. Fifteen feet from the design high-water line of
16 retention areas, detention areas, or swales designed to
17 contain standing or flowing water for less than 72 hours after
18 a rainfall or the design high-water level of normally dry
19 drainage ditches or normally dry individual-lot
20 stormwater-retention areas.

21 7. Seventy-five feet from the mean high-water line of
22 a tidally influenced surface water body;

23 8. Seventy-five feet from the mean annual flood line
24 of a permanent nontidal surface water body;

25 (f) Except as provided under paragraphs (e) and (t), a
26 limitation may not be imposed by rule, relating to the
27 distance between an onsite disposal system and any area that
28 either permanently or temporarily has visible surface water.

29 (g)(f) All provisions of this section and rules
30 adopted under this section relating to soil condition, water
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1 table elevation, distance, and other setback requirements must
2 be equally applied to all lots, with the following exceptions:

3 1. Any residential lot that was platted and recorded
4 on or after January 1, 1972, or that is part of a residential
5 subdivision that was approved by the appropriate permitting
6 agency on or after January 1, 1972, and that was eligible for
7 an onsite sewage treatment and disposal system construction
8 permit on the date of such platting and recording or approval
9 shall be eligible for an onsite sewage treatment and disposal
10 system construction permit, regardless of when the application
11 for a permit is made. If rules in effect at the time the
12 permit application is filed cannot be met, residential lots
13 platted and recorded or approved on or after January 1, 1972,
14 shall, to the maximum extent possible, comply with the rules
15 in effect at the time the permit application is filed. At a
16 minimum, however, those residential lots platted and recorded
17 or approved on or after January 1, 1972, but before January 1,
18 1983, shall comply with those rules in effect on January 1,
19 1983, and those residential lots platted and recorded or
20 approved on or after January 1, 1983, shall comply with those
21 rules in effect at the time of such platting and recording or
22 approval. In determining the maximum extent of compliance
23 with current rules that is possible, the department shall
24 allow structures and appurtenances thereto which were
25 authorized at the time such lots were platted and recorded or
26 approved.

27 2. Lots platted before 1972 are subject to a 50-foot
28 minimum surface water setback and are not subject to lot size
29 requirements. The projected daily flow for domestic onsite
30 sewage treatment and disposal systems for lots platted before
31 1972 may not exceed:

1 a. Two thousand five hundred gallons per acre per day
2 for lots served by public water systems as defined in s.
3 403.852.

4 b. One thousand five hundred gallons per acre per day
5 for lots served by water systems regulated under s. 381.0062.

6 (h)~~(g)~~1. The department may grant variances in
7 hardship cases which may be less restrictive than the
8 provisions specified in this section. If a variance is
9 granted and the onsite sewage treatment and disposal system
10 construction permit has been issued, the variance may be
11 transferred with the system construction permit, if the
12 transferee files, within 60 days after the transfer of
13 ownership, an amended construction permit application
14 providing all corrected information and proof of ownership of
15 the property and if the same variance would have been required
16 for the new owner of the property as was originally granted to
17 the original applicant for the variance. There is no fee
18 associated with the processing of this supplemental
19 information. A variance may not be granted under this section
20 until the department is satisfied that:

21 a. The hardship was not caused intentionally by the
22 action of the applicant;

23 b. No reasonable alternative, taking into
24 consideration factors such as cost, exists for the treatment
25 of the sewage; and

26 c. The discharge from the onsite sewage treatment and
27 disposal system will not adversely affect the health of the
28 applicant or the public or significantly degrade the
29 groundwater or surface waters.

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1 | Where soil conditions, water table elevation, and setback
2 | provisions are determined by the department to be
3 | satisfactory, special consideration must be given to those
4 | lots platted before 1972.

5 | 2. The department shall appoint and staff a variance
6 | review and advisory committee, which shall meet monthly to
7 | recommend agency action on variance requests. The committee
8 | shall make its recommendations on variance requests at the
9 | meeting in which the application is scheduled for
10 | consideration, except for an extraordinary change in
11 | circumstances, the receipt of new information that raises new
12 | issues, or when the applicant requests an extension. The
13 | committee shall consider the criteria in subparagraph 1. in
14 | its recommended agency action on variance requests and shall
15 | also strive to allow property owners the full use of their
16 | land where possible. The committee consists of the following:

17 | a. The Division Director for Environmental Health of
18 | the department or his or her designee.

19 | b. A representative from the county health
20 | departments.

21 | c. A representative from the home building industry
22 | recommended by the Florida Home Builders Association.

23 | d. A representative from the septic tank industry
24 | recommended by the Florida Septic Tank Association.

25 | e. A representative from the Department of
26 | Environmental Protection.

27 | f. A representative from the real estate industry who
28 | is also a developer in this state who develops lots using
29 | onsite sewage treatment and disposal systems, recommended by
30 | the Florida Association of Realtors.

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1 g. A representative from the engineering profession
2 recommended by the Florida Engineering Society.

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4 Members shall be appointed for a term of 3 years, with such
5 appointments being staggered so that the terms of no more than
6 two members expire in any one year. Members shall serve
7 without remuneration, but if requested, shall be reimbursed
8 for per diem and travel expenses as provided in s. 112.061.

9 (i)~~(h)~~ A construction permit may not be issued for an
10 onsite sewage treatment and disposal system in any area zoned
11 or used for industrial or manufacturing purposes, or its
12 equivalent, where a publicly owned or investor-owned sewage
13 treatment system is available, or where a likelihood exists
14 that the system will receive toxic, hazardous, or industrial
15 waste. An existing onsite sewage treatment and disposal
16 system may be repaired if a publicly owned or investor-owned
17 sewerage system is not available within 500 feet of the
18 building sewer stub-out and if system construction and
19 operation standards can be met. This paragraph does not
20 require publicly owned or investor-owned sewerage treatment
21 systems to accept anything other than domestic wastewater.

22 1. A building located in an area zoned or used for
23 industrial or manufacturing purposes, or its equivalent, when
24 such building is served by an onsite sewage treatment and
25 disposal system, must not be occupied until the owner or
26 tenant has obtained written approval from the department. The
27 department shall not grant approval when the proposed use of
28 the system is to dispose of toxic, hazardous, or industrial
29 wastewater or toxic or hazardous chemicals.

30 2. Each person who owns or operates a business or
31 facility in an area zoned or used for industrial or

1 manufacturing purposes, or its equivalent, or who owns or
2 operates a business that has the potential to generate toxic,
3 hazardous, or industrial wastewater or toxic or hazardous
4 chemicals, and uses an onsite sewage treatment and disposal
5 system that is installed on or after July 5, 1989, must obtain
6 an annual system operating permit from the department. A
7 person who owns or operates a business that uses an onsite
8 sewage treatment and disposal system that was installed and
9 approved before July 5, 1989, need not obtain a system
10 operating permit. However, upon change of ownership or
11 tenancy, the new owner or operator must notify the department
12 of the change, and the new owner or operator must obtain an
13 annual system operating permit, regardless of the date that
14 the system was installed or approved.

15 3. The department shall periodically review and
16 evaluate the continued use of onsite sewage treatment and
17 disposal systems in areas zoned or used for industrial or
18 manufacturing purposes, or its equivalent, and may require the
19 collection and analyses of samples from within and around such
20 systems. If the department finds that toxic or hazardous
21 chemicals or toxic, hazardous, or industrial wastewater have
22 been or are being disposed of through an onsite sewage
23 treatment and disposal system, the department shall initiate
24 enforcement actions against the owner or tenant to ensure
25 adequate cleanup, treatment, and disposal.

26 (j)~~(i)~~ An onsite sewage treatment and disposal system
27 for a single-family residence that is designed by a
28 professional engineer registered in the state and certified by
29 such engineer as complying with performance criteria adopted
30 by the department must be approved by the department subject
31 to the following:

1 1. The performance criteria applicable to
2 engineer-designed systems must be limited to those necessary
3 to ensure that such systems do not adversely affect the public
4 health or significantly degrade the groundwater or surface
5 water. Such performance criteria shall include consideration
6 of the quality of system effluent, the proposed total sewage
7 flow per acre, wastewater treatment capabilities of the
8 natural or replaced soil, water quality classification of the
9 potential surface-water-receiving body, and the structural and
10 maintenance viability of the system for the treatment of
11 domestic wastewater. However, performance criteria shall
12 address only the performance of a system and not a system's
13 design.

14 2. The technical review and advisory panel shall
15 assist the department in the development of performance
16 criteria applicable to engineer-designed systems. Workshops
17 on the development of the rules delineating such criteria
18 shall commence not later than September 1, 1996, and the
19 department shall advertise such rules for public hearing no
20 later than October 1, 1997.

21 3. A person electing to utilize an engineer-designed
22 system shall, upon completion of the system design, submit
23 such design, certified by a registered professional engineer,
24 to the county health department. The county health department
25 may utilize an outside consultant to review the
26 engineer-designed system, with the actual cost of such review
27 to be borne by the applicant. Within 5 working days after
28 receiving an engineer-designed system permit application, the
29 county health department shall request additional information
30 if the application is not complete. Within 15 working days
31 after receiving a complete application for an

1 engineer-designed system, the county health department either
2 shall issue the permit or, if it determines that the system
3 does not comply with the performance criteria, shall notify
4 the applicant of that determination and refer the application
5 to the department for a determination as to whether the system
6 should be approved, disapproved, or approved with
7 modification. The department engineer's determination shall
8 prevail over the action of the county health department. The
9 applicant shall be notified in writing of the department's
10 determination and of the applicant's rights to pursue a
11 variance or seek review under the provisions of chapter 120.

12 4. The owner of an engineer-designed performance-based
13 system must obtain an annual system operating permit from the
14 department. The department shall inspect the system at least
15 annually and may collect system-effluent samples if
16 appropriate to determine compliance with the performance
17 criteria. The fee for the annual operating permit shall be
18 collected beginning with the second year of system operation.

19 5. If an engineer-designed system fails to properly
20 function or fails to meet performance standards, the system
21 shall be re-engineered, if necessary, to bring the system into
22 compliance with the provisions of this section.

23 (k)~~(j)~~ An innovative system may be approved in
24 conjunction with an engineer-designed site-specific system
25 which is certified by the engineer to meet the
26 performance-based criteria adopted by the department.

27 (l)~~(k)~~ For the Florida Keys, the department shall
28 adopt a special rule for the construction, installation,
29 modification, operation, repair, maintenance, and performance
30 of onsite sewage treatment and disposal systems which
31 considers the unique soil conditions and which considers water

1 table elevations, densities, and setback requirements. On
2 lots where a setback distance of 75 feet from surface waters,
3 saltmarsh, and buttonwood association habitat areas cannot be
4 met, an injection well, approved and permitted by the
5 department, may be used for disposal of effluent from onsite
6 sewage treatment and disposal systems. The department shall
7 require effluent from onsite sewage treatment and disposal
8 systems to meet advanced waste treatment concentrations, as
9 defined in s. 403.086.

10 (m)~~(l)~~ No product sold in the state for use in onsite
11 sewage treatment and disposal systems may contain any
12 substance in concentrations or amounts that would interfere
13 with or prevent the successful operation of such system, or
14 that would cause discharges from such systems to violate
15 applicable water quality standards. The department shall
16 publish criteria for products known or expected to meet the
17 conditions of this paragraph. In the event a product does not
18 meet such criteria, such product may be sold if the
19 manufacturer satisfactorily demonstrates to the department
20 that the conditions of this paragraph are met.

21 (n)~~(m)~~ Evaluations for determining the seasonal
22 high-water table elevations or the suitability of soils for
23 the use of a new onsite sewage treatment and disposal system
24 shall be performed by department personnel, professional
25 engineers registered in the state, or such other persons with
26 expertise, as defined by rule, in making such evaluations.
27 Evaluations for determining mean annual flood lines shall be
28 performed by those persons identified in paragraph (2)(i).The
29 department shall accept evaluations submitted by professional
30 engineers and such other persons as meet the expertise
31 established by this section or by rule unless the department

1 has a reasonable scientific basis for questioning the accuracy
2 or completeness of the evaluation.

3 (o)~~(n)~~ The department shall appoint a research review
4 and advisory committee, which shall meet at least
5 semiannually. The committee shall advise the department on
6 directions for new research, review and rank proposals for
7 research contracts, and review draft research reports and make
8 comments. The committee is comprised of:

- 9 1. A representative of the Division of Environmental
10 Health of the Department of Health.
- 11 2. A representative from the septic tank industry.
- 12 3. A representative from the home building industry.
- 13 4. A representative from an environmental interest
14 group.
- 15 5. A representative from the State University System,
16 from a department knowledgeable about onsite sewage treatment
17 and disposal systems.
- 18 6. A professional engineer registered in this state
19 who has work experience in onsite sewage treatment and
20 disposal systems.
- 21 7. A representative from the real estate profession.
- 22 8. A representative from the restaurant industry.
- 23 9. A consumer.

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25 Members shall be appointed for a term of 3 years, with the
26 appointments being staggered so that the terms of no more than
27 four members expire in any one year. Members shall serve
28 without remuneration, but are entitled to reimbursement for
29 per diem and travel expenses as provided in s. 112.061.

30 (p)~~(o)~~ An application for an onsite sewage treatment
31 and disposal system permit shall be completed in full, signed

1 by the owner or the owner's authorized representative, or by a
2 contractor licensed under chapter 489, and shall be
3 accompanied by all required exhibits and fees. No specific
4 documentation of property ownership shall be required as a
5 prerequisite to the review of an application or the issuance
6 of a permit. The issuance of a permit does not constitute
7 determination by the department of property ownership.

8 (q)~~(p)~~ The department may not require any form of
9 subdivision analysis of property by an owner, developer, or
10 subdivider prior to submission of an application for an onsite
11 sewage treatment and disposal system.

12 (r)~~(q)~~ Nothing in this section limits the power of a
13 municipality or county to enforce other laws for the
14 protection of the public health and safety.

15 (s)~~(r)~~ In the siting of onsite sewage treatment and
16 disposal systems, including drainfields, shoulders, and
17 slopes, guttering shall not be required on single-family
18 residential dwelling units for systems located greater than 5
19 feet from the roof drip line of the house. If guttering is
20 used on residential dwelling units, the downspouts shall be
21 directed away from the drainfield.

22 (t)~~(s)~~ Notwithstanding the provisions of subparagraph
23 (g)1.~~(f)1.~~, onsite sewage treatment and disposal systems
24 located in floodways of the Suwannee and Aucilla Rivers must
25 adhere to the following requirements:

26 1. The absorption surface of the drainfield shall not
27 be subject to flooding based on 10-year flood elevations.
28 Provided, however, for lots or parcels created by the
29 subdivision of land in accordance with applicable local
30 government regulations prior to January 17, 1990, if an
31 applicant cannot construct a drainfield system with the

1 absorption surface of the drainfield at an elevation equal to
2 or above 10-year flood elevation, the department shall issue a
3 permit for an onsite sewage treatment and disposal system
4 within the 10-year floodplain of rivers, streams, and other
5 bodies of flowing water if all of the following criteria are
6 met:

7 a. The lot is at least one-half acre in size;
8 b. The bottom of the drainfield is at least 36 inches
9 above the 2-year flood elevation; and
10 c. The applicant installs either: a waterless,
11 incinerating, or organic waste composting toilet and a
12 graywater system and drainfield in accordance with department
13 rules; an aerobic treatment unit and drainfield in accordance
14 with department rules; a system approved by the State Health
15 Office that is capable of reducing effluent nitrate by at
16 least 50 percent; or a system approved by the county health
17 department pursuant to department rule other than a system
18 using alternative drainfield materials. The United States
19 Department of Agriculture Soil Conservation Service soil maps,
20 State of Florida Water Management District data, and Federal
21 Emergency Management Agency Flood Insurance maps are resources
22 that shall be used to identify flood-prone areas.

23 2. The use of fill or mounding to elevate a drainfield
24 system out of the 10-year floodplain of rivers, streams, or
25 other bodies of flowing water shall not be permitted if such a
26 system lies within a regulatory floodway of the Suwannee and
27 Aucilla Rivers. In cases where the 10-year flood elevation
28 does not coincide with the boundaries of the regulatory
29 floodway, the regulatory floodway will be considered for the
30 purposes of this subsection to extend at a minimum to the
31 10-year flood elevation.

1 Section 2. Paragraph (k) of subsection (2) of section
2 381.0066, Florida Statutes, is amended to read:

3 381.0066 Onsite sewage treatment and disposal systems;
4 fees.--

5 (2) The minimum fees in the following fee schedule
6 apply until changed by rule by the department within the
7 following limits:

8 (k) Research: An additional \$5 fee shall be added to
9 each new system construction permit issued during fiscal years
10 1996-2002 to be used for onsite sewage treatment and disposal
11 system research, demonstration, and training projects. Five
12 dollars from any repair permits collected under this section
13 must be used for funding the hands-on training center
14 described in s. 381.0065(3)(i).

15
16 The funds collected pursuant to this subsection must be
17 deposited in a trust fund administered by the department, to
18 be used for the purposes stated in this section and ss.
19 381.0065 and 381.00655.

20 Section 3. (1) By February 1, 2000, the Department of
21 Health is to report to the Legislature its findings from a
22 scientific research project, applicable to Florida soils, on
23 the appropriate setback of an onsite sewage treatment and
24 disposal system to a seasonally inundated area so as to assure
25 that the system does not adversely affect public health or
26 significantly degrade the groundwater or surface waters of the
27 state. For purposes of the study, the term "seasonally
28 inundated area" shall mean specific soil mapping units, of at
29 least 0.025 acre, that are classified in the Soil Legend of
30 the applicable USDA Natural Resource Conservation Service
31 (NRCS) Florida county soil survey as frequently flooded,

1 ponded, depressional, or slough, that are described in the
2 Detailed Soil Map Units of the applicable NRCS Florida county
3 soil survey as very poorly drained; or that are classified in
4 the Soil Legend of the NRCS county soil survey for Taylor
5 County as commonly flooded. The accuracy of any soil mapping
6 unit designated for a specific site may be field-verified
7 using NRCS soil survey methodologies by a soil scientist or
8 soil classifier certified by the American Registry of
9 Certified Professionals in Agronomy, Crops, and Soils, a soil
10 scientist employed by the NRCS, a licensed professional
11 engineer experienced in utilizing NRCS soil survey
12 methodologies, or at the applicant's option, department
13 personnel. Where the department can authorize construction of
14 an onsite sewage treatment and disposal system taking into
15 account the seasonally inundated area, field verification is
16 not a precondition to permit issuance. An area shall not be
17 considered a seasonally inundated area if it has been
18 physically altered, or will be physically altered before an
19 onsite sewage treatment and disposal system is operated, in a
20 manner that prevents future seasonal inundation, provided that
21 such physical alteration is not unlawful.

22 (2) If the department chooses to retain an outside
23 consultant, the requirement for contracting the project
24 pursuant to section 381.0065(3)(j), Florida Statutes, shall be
25 met. Any research findings made as a result of the project
26 will be reviewed by the research review and advisory committee
27 and the technical review advisory panel. Any comments made by
28 either group will be submitted along with the report to the
29 Legislature.

30 Section 4. This act shall take effect upon becoming a
31 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 2288

The committee substitutes defines the term "mean annual flood line" instead of "normal annual floodwater line," and deletes the definition of "seasonally inundated area." Provides for a scientific research project on the appropriate setback of an onsite sewage treatment and disposal system to seasonally inundated areas to assure the system does not adversely affect public health or significantly degrade the groundwater or surface waters of the state. Provides that a report be made to the Legislature.